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# A BILL FOR AN ACT

RELATING TO FINANCIAL INSTITUTIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

PART I

SECTION 1. Chapter 412, Hawaii Revised Statutes, is amended by adding a new section to article 2 to be appropriately designated and to read as follows:

"§412:2- Powers of the commissioner. In addition to any other powers provided by law, the commissioner shall have the authority to:

- (1) Administer and enforce the provisions and requirements of this chapter;
- (2) Adopt, amend, or repeal rules or issue declaratory rulings pursuant to chapter 91 to effectuate the purposes of this chapter;
- (3) Issue informal nonbinding interpretations to effectuate the purposes of this chapter;
- (4) Develop requirements for charter or licensure through rules;



- 1       (5) Investigate and conduct hearings regarding any  
2       violation of this chapter or any rule or order of, or  
3       agreement with, the commissioner;
- 4       (6) Require a licensed or chartered entity or other entity  
5       with a certificate of authority to comply with any  
6       rule, guidance, guideline, statement, supervisory  
7       policy, or any similar proclamation issued or adopted  
8       by the appropriate federal regulatory authority."

9       SECTION 2. Section 412:1-109, Hawaii Revised Statutes, is  
10      amended by amending the definitions of "appropriate federal  
11      regulatory agency" and "deposit" or "deposits" to read as  
12      follows:

13        "Appropriate federal regulatory agency" means, with  
14      respect to a financial institution or financial institution  
15      holding company, any one or more regulatory agencies of the  
16      federal government referred to in the following sentence which  
17      either (1) insures the deposits of the financial institution or  
18      financial institution holding company, or (2) has the power and  
19      duty to conduct periodic general examinations of the affairs of  
20      the financial institution or financial institution holding  
21      company by virtue of the legal characterization of the financial  
22      institution or financial institution holding company under



1 federal law, and not by virtue of the fact of affiliation of the  
2 financial institution or financial institution holding company  
3 with any other person or an alleged violation of a specific law.  
4 Subject to the preceding sentence, an appropriate federal  
5 regulatory agency may ~~[be]~~ include the Federal Deposit Insurance  
6 Corporation, the Comptroller of the Currency, the Federal  
7 Reserve Board, ~~[the Office of Thrift Supervision,]~~ the National  
8 Credit Union Administration, the Consumer Financial Protection  
9 Bureau, or any regulatory agency of the federal government which  
10 shall succeed to the insurance or supervisory duties of one of  
11 the foregoing.

12 "Deposit" or "deposits" means money or its equivalent  
13 received or held by a person in the usual course of business and  
14 for which it has given or is obligated to give credit, either  
15 conditionally or unconditionally, to a demand, checking,  
16 savings, time, passbook, negotiable order of withdrawal, thrift,  
17 or share account, or which is evidenced by its passbook,  
18 certificate of deposit, thrift certificate, investment  
19 certificate, certificate of indebtedness, or other similar  
20 instrument, or a check, draft, or share draft drawn against a  
21 deposit account and certified by a person, on which the person  
22 is primarily liable. A deposit includes all funds underlying



1 prepaid access cards or stored value cards and other  
2 nontraditional access mechanisms to the extent that the funds  
3 have been placed in a depository institution."

4 SECTION 3. Section 412:3-501, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "**§412:3-501 Authorized places of business.** (a) A Hawaii  
7 financial institution may conduct business at one or more of the  
8 following places of business, to the extent authorized:

9 (1) The principal office of a Hawaii financial institution  
10 is the place of business that it designates as its  
11 executive headquarters in this State. A financial  
12 institution may, but need not, conduct other  
13 businesses permitted under its charter or license at  
14 its principal office; provided that for the purposes  
15 of this section, the terms "principal office", "home  
16 office", and "main office" are interchangeable;

17 (2) A branch is a place of business open to the public  
18 where a financial institution shall be authorized to  
19 conduct all businesses permitted under its charter or  
20 license, except for the maintenance of its executive  
21 headquarters[+]. A branch does not include an  
22 automated teller machine or a remote service unit;



1 (3) An agency is a place of business open to the public  
2 where a financial institution may conduct only  
3 specific businesses approved by the commissioner in  
4 writing;

5 (4) An [~~automatic~~] automated teller machine or ATM is a  
6 place of business, either at a fixed location or  
7 mobile, consisting of an on-line or off-line, staffed  
8 or unstaffed, electronic processing device, including  
9 associated equipment and structures, that is situated  
10 at a premises separate from a financial institution's  
11 principal office, branch, agency, or support facility,  
12 at which deposits of cash or instruments, or cash  
13 disbursement transactions between a person and one or  
14 more financial institutions are accomplished, whether  
15 instantaneous or otherwise, through or by means of  
16 electronic or automated signals or impulses including  
17 the human voice[, ~~provided that it shall not mean a~~  
18 ~~telephone or an electronic processing device situated~~  
19 ~~at or within the premises of a bank customer that is~~  
20 ~~used only for transactions between that customer and~~  
21 ~~the financial institution~~]. The term does not include



1 merchant operated terminals [~~and~~], point of sale  
2 terminals[~~+~~], and remote service units;

3 (5) A remote service unit is a place of business,  
4 consisting of an on-line or off-line, staffed or  
5 unstaffed, electronic processing device, including  
6 associated equipment and structures, that is used only  
7 for transactions between a financial institution  
8 customer and the financial institution, and that is  
9 situated at premises separate from a financial  
10 institution's principal office, branch, agency, or  
11 support facility, at which deposits of cash or  
12 instruments, or cash disbursement transactions, are  
13 accomplished, whether instantaneous or otherwise,  
14 through or by means of electronic or automated signals  
15 or impulses including the human voice; and

16 [~~+~~5+] (6) A support facility is a place of business that is  
17 not generally open to the public, where a financial  
18 institution conducts limited types of significant  
19 business operations of the financial institution,  
20 including but not limited to data processing, clerical  
21 activities, and storage.



1 (b) In addition to conducting business at a place of  
2 business described in subsection (a), a Hawaii financial  
3 institution may conduct business in any other manner or place  
4 necessary or convenient; provided that deposits of cash or  
5 instruments shall not be received, checks, negotiable orders of  
6 withdrawal, or share drafts shall not be paid, and cash shall  
7 not be disbursed, except at an authorized principal office,  
8 branch [~~or automatic~~], automated teller machine, or remote  
9 service unit, or at any agency or support facility which has  
10 been authorized by the commissioner to accept deposits or  
11 disburse cash."

12 SECTION 4. Section 412:5-203, Hawaii Revised Statutes, is  
13 amended by amending subsections (a) and (b) to read as follows:

14 "(a) "Operating subsidiary" means a corporation other than  
15 a corporation referred to in section 412:5-305(g)(2) to (8) of  
16 which more than [~~eighty~~] fifty per cent of the voting securities  
17 is held directly or indirectly by a bank.

18 (b) An operating subsidiary may engage in activities that  
19 are authorized for a bank, including those under section 412:5-  
20 305 and title 12 Code of Federal Regulations part 362, or that  
21 are usual or incidental to the business of a bank."



1       SECTION 5.   Section 412:5-302, Hawaii Revised Statutes, is  
2 amended to read as follows:

3       "**§412:5-302   Limitations on loans and extensions of credit**  
4 **to one borrower.**   (a)   No bank shall permit a person to become  
5 indebted or liable to it, either directly or indirectly on loans  
6 and extensions of credit, including any credit exposure arising  
7 out of derivative transactions entered into by a bank and its  
8 subsidiaries, in a total amount outstanding at any one time in  
9 excess of twenty per cent of the capital and surplus of the  
10 bank.

11       (b)   As used in this section, a "derivative transaction"  
12 includes any transaction that is a contract, agreement, swap,  
13 warrant, note, or option that is based, in whole or in part, on  
14 the value of, any interest in, any quantitative measure of or  
15 the occurrence of any event relating to, one or more  
16 commodities, securities, currencies, interest or other rates,  
17 indices, or other assets.

18       ~~[(b)]~~ (c)   This section applies to all loans and extensions  
19 of credit made and to all credit exposure arising out of  
20 derivative transactions entered into by a bank and its  
21 subsidiaries.   It does not apply to loans and extensions of



1 credit made by a bank or its subsidiaries to its affiliates or  
2 subsidiaries.

3 ~~[(e)]~~ (d) The limitations set forth in this section shall  
4 not apply to:

5 (1) A bank's eligible acceptances as described in section  
6 412:5-204(b);

7 (2) A bank's purchase or discount of another bank's  
8 acceptances of the kinds described in section 13 of  
9 the Federal Reserve Act;

10 (3) A bank's deposits with a Federal Reserve Bank, Federal  
11 Home Loan Bank, or another depository institution made  
12 in compliance with this chapter;

13 (4) A bank's sale of federal funds to another depository  
14 institution with a maturity of one business day or  
15 under a continuing contract;

16 (5) Loans and extensions of credit secured by the  
17 interest-bearing obligations of the United States or  
18 those for which the faith and credit of the United  
19 States are distinctly pledged to provide for the  
20 payment of the principal and interest thereof or of  
21 the State or any county or municipal or political  
22 subdivision of this State, issued in compliance with



1 the laws of this State, where the market value of the  
2 security shall be at any time not less than one  
3 hundred five per cent of the face amount of the loans  
4 and extensions of credit;

5 (6) Loans and extensions of credit to the extent secured  
6 by a pledge or security interest in a deposit account  
7 in the lending bank; and

8 (7) Loans and extensions of credit arising from the  
9 discount of negotiable or nonnegotiable credit sales  
10 contracts which carry a partial recourse endorsement  
11 or limited guarantee by the person transferring the  
12 credit sales contracts, if the bank's respective file  
13 or the knowledge of its officers of the financial  
14 condition of each maker of [~~such~~] the credit sales  
15 contract is reasonably adequate, and an officer of the  
16 bank certifies in writing that the bank is relying  
17 primarily upon the responsibility of each maker for  
18 payment of [~~such~~] the credit sales contract, and not  
19 upon any partial recourse endorsement or limited  
20 guarantee by the transferor. Under these  
21 circumstances, [~~such~~] the credit sales contract will  
22 be considered a loan and extension of credit to the



1 maker of the credit sales contract rather than the  
2 seller of the credit sales contract.

3 ~~[(d)]~~ (e) In computing the total loans and extensions of  
4 credit made by a bank to any person, all loans and extensions of  
5 credit by the bank to the person and to any partnership, joint  
6 venture, or unincorporated association of which the person is a  
7 partner or a member and all credit exposure arising from a  
8 derivative transaction with any person and with any  
9 partnership, joint venture, or unincorporated association of  
10 which the person is a partner or a member shall be included  
11 unless the person is a limited partner, but not a general  
12 partner, in a limited partnership, or unless the person is a  
13 partner in a limited or general partnership, or a member of a  
14 joint venture or unincorporated association, if such partner or  
15 member, by law, by the terms of the partnership, joint venture,  
16 or membership agreement, or by the terms of an agreement with  
17 the bank, is not to be held liable to the bank for the debts of  
18 the partnership, joint venture, or association. In computing  
19 the total loans and extensions ~~[or]~~ of credit made by a bank to  
20 any firm, partnership, joint venture, or unincorporated  
21 association, all loans and extensions of credit to and all  
22 credit exposure arising from a derivative transaction with its



1 individual partners or members shall be included unless such  
2 individual partner is a limited partner, but not a general  
3 partner, in a limited partnership, or unless such individual  
4 partner or member, by law, by the terms of the partnership,  
5 joint venture, or membership agreement, or by the terms of an  
6 agreement with the bank, is not to be held liable to the bank  
7 for the debts of the partnership, joint venture, or association.

8       ~~[(e)]~~ (f) Alternatively, a bank may, with the prior  
9 approval of the commissioner, comply with the lending limits  
10 applicable to national ~~[banking associations,]~~ banks, as and to  
11 the same extent it would, at the time, be so required by federal  
12 law or regulation if it were a national ~~[banking association.]~~  
13 bank. A bank utilizing this alternative shall use a single  
14 method for calculating lending limits, including any credit  
15 exposure to the person arising from a derivative transaction,  
16 repurchase agreement, reverse purchase agreement, securities  
17 lending transaction, or securities borrowing transaction between  
18 the bank and the person. In monitoring a bank's compliance with  
19 the national ~~[banking association]~~ bank lending limits, the  
20 commissioner shall give substantial weight to the Office of the  
21 Comptroller of the Currency's regulations and opinions  
22 interpreting the national ~~[banking association]~~ bank lending



1 limits ~~[and]~~, including but not limited to those related to the  
2 internal model method or the conversion factor matrix method for  
3 calculating credit exposure to derivative transactions as  
4 described in title 12 Code of Federal Regulations Part 32 of the  
5 Interim Rule as may be amended. The commissioner will regard  
6 ~~[them]~~ the regulations and opinions as strong evidence of safe  
7 and sound banking practices."

8 SECTION 6. Section 412:5-305, Hawaii Revised Statutes, is  
9 amended by amending subsections (f) and (g) to read as follows:

10 "(f) To the extent specified herein, a bank may purchase,  
11 hold, convey, sell, or lease real or personal property as  
12 follows:

- 13 (1) The real property in or on which the business of the  
14 bank is carried on, including its banking offices~~[7]~~;  
15 other space in the same property to rent as a source  
16 of income; permanent or vacation residences or  
17 recreational facilities for its officers and  
18 employees; other real property necessary to the  
19 accommodation of the bank's business, including but  
20 not limited to parking facilities, data processing  
21 centers, and real property held for future banking use  
22 where the bank in good faith expects to ~~[utilize]~~ use



1 the property as bank premises; provided~~[7]~~ that if the  
2 bank ceases to use any real property and improvements  
3 thereon for one of the foregoing purposes, it shall,  
4 within five years thereafter, sell the real property  
5 ~~[ex]~~, cease to carry it or them as an asset~~[7]~~, or  
6 transfer the real property to an operating subsidiary  
7 of the bank; provided further that the bank's  
8 investment in such operating subsidiary shall not  
9 exceed fifteen per cent of the bank's tier one  
10 capital; provided further, such property shall not  
11 without the approval of the commissioner exceed  
12 seventy-five per cent of the bank's capital and  
13 surplus;

14 (2) Personal property used in or necessary to the  
15 accommodation of the bank's business, including but  
16 not limited to furniture, fixtures, equipment, vaults,  
17 and safety deposit boxes. The bank's investment in  
18 furniture and fixtures shall not without the approval  
19 of the commissioner exceed twenty-five per cent of the  
20 bank's capital and surplus;

21 (3) Personal property and fixtures which the bank acquires  
22 for purposes of leasing to third parties, and such



1 real property interests as shall be incidental  
2 thereto;

3 (4) Such real property or tangible personal property as  
4 may come into its possession as security for loans or  
5 in the collection of debts; or as may be purchased by  
6 or conveyed to the bank in satisfaction of or on  
7 account of debts previously contracted in the course  
8 of its business, when such property was held as  
9 security by the bank; and

10 (5) The seller's interest under an agreement of sale, as  
11 that term is defined in sections 501-101.5, and 502-  
12 85, including without limitation the reversionary  
13 interest in the real estate and the right to income  
14 under the agreement of sale, with or without recourse  
15 to the seller.

16 Except as otherwise authorized in this section any tangible  
17 personal property acquired by a bank pursuant to subsection

18 (f)(4) shall be disposed of as soon as practicable and shall not  
19 without the written consent of the commissioner be considered a  
20 part of the assets of the bank after the expiration of two years  
21 from the date of acquisition.



1 Except as otherwise authorized in this section any real  
2 property acquired by a bank pursuant to subsection (f)(4) shall  
3 be sold or exchanged for other real property by the bank within  
4 five years after title thereto has vested in it by purchase or  
5 otherwise, or within such further time as may be granted by the  
6 commissioner.

7 Any bank acquiring any real property in any manner other  
8 than provided by this section shall immediately, upon receiving  
9 notice from the commissioner, charge the same to profit and  
10 loss, or otherwise remove the same from assets, and when any  
11 loss impairs the capital and surplus of the bank the impairment  
12 shall be made good in the manner provided in this chapter.

13 For purposes of this subsection, "tier one capital" has the  
14 same meaning as set forth in title 12 Code of Federal  
15 Regulations part 325.

16 (g) A bank may own or control [~~the capital stock~~]:

17 (1) [~~Of operating~~] Operating subsidiaries, or the parent  
18 of the operating subsidiary, as set forth in this  
19 article;

20 (2) [~~Of a~~] A corporation, partnership, or limited  
21 liability company, organized and existing for the  
22 ownership of real or personal property used or which



1 the bank in good faith expects to be used in the  
2 bank's business[+] or used for a permitted purpose  
3 under title 12 Code of Federal Regulations part 362;

4 (3) [~~Of~~] The capital stock of the Federal National  
5 Mortgage Association, the Student Loan Marketing  
6 Association, Federal Home Loan Mortgage Corporation,  
7 or of any other corporation organized for  
8 substantially the same purposes; provided that this  
9 subsection shall be deemed to authorize subscription  
10 for as well as purchase of the stock;

11 (4) [~~Of~~] A small business investment [~~companies~~] company  
12 operating under the Federal Small Business Investment  
13 Act of 1958;

14 (5) [~~Of bank~~] Bank service corporations, subject to the  
15 Bank Service [~~Corporation~~] Company Act, 12 U.S.C.  
16 §§1861-1862;

17 (6) [~~Of a~~] A corporation whose stock is acquired or  
18 purchased to save a loss on a preexisting debt secured  
19 by such stock; provided, that the stock shall be sold  
20 within twelve months of the date acquired or  
21 purchased, or within such further time as may be  
22 granted by the commissioner;



(7) ~~[Of an]~~ An international banking corporation established pursuant to article 5A ~~[of this chapter]~~ or an Edge corporation or an Agreement corporation established or authorized pursuant to section 25a of the Federal Reserve Act, 12 U.S.C. §631;

(8) ~~[Of a]~~ A captive insurance company incorporated under the laws of the United States, or any state or territory thereof, or the District of Columbia;

(9) ~~[Of a]~~ A company transacting a business of insurance or the sale of annuities pursuant to the authority conferred in section 412:5-205.5; and

(10) ~~[Of a]~~ A company engaging in securities activities pursuant to the authority conferred in section 412:5-205.7."

SECTION 7. Section 412:6-303, Hawaii Revised Statutes, is amended to read as follows:

**"§412:6-303 Limitations on loans and extensions of credit to one borrower.** (a) No savings bank shall permit a person to become indebted or liable to it, either directly or indirectly, on loans and extensions of credit, including any credit exposure arising out of derivative transactions entered into by a savings bank and its subsidiaries, in a total amount outstanding at any



1 one time in excess of twenty per cent of the capital and surplus  
2 of the savings bank.

3 (b) As used in this section, a "derivative transaction"  
4 includes any transaction that is a contract, agreement, swap,  
5 warrant, note, or option that is based, in whole or in part, on  
6 the value of, any interest in, any quantitative measure of, or  
7 the occurrence of any event relating to one or more commodities,  
8 securities, currencies, interest or other rates, indices, or  
9 other assets.

10 ~~[(b)]~~ (c) This section applies to all loans ~~[and]~~,  
11 extensions of credit made, and credit exposure arising out of  
12 derivative transactions entered into, by a savings bank and its  
13 subsidiaries. It does not apply to loans and extensions of  
14 credit made by a savings bank or its subsidiaries to its  
15 affiliates or subsidiaries.

16 ~~[(c)]~~ (d) The limitations set forth in this section shall  
17 not apply to:

- 18 (1) A savings bank's deposits with a Federal Reserve Bank,  
19 Federal Home Loan Bank, or another depository  
20 institution made in compliance with this chapter;



1 (2) A savings bank's sale of federal funds to another  
2 depository institution with a maturity of one business  
3 day or under a continuing contract;

4 (3) Loans and extensions of credit secured by the  
5 interest-bearing obligations of the United States or  
6 those for which the faith and credit of the United  
7 States are distinctly pledged to provide for the  
8 payment of the principal and interest thereof or of  
9 the State or any county or municipal or political  
10 subdivision of this State, issued in compliance with  
11 the laws of this State, where the market value of the  
12 security shall be at any time not less than one  
13 hundred five per cent of the face amount of the loans  
14 and extensions of credit;

15 (4) Loans and extensions of credit to the extent secured  
16 by a pledge or security interest in a deposit account  
17 in the savings bank serving as the lender; and

18 (5) Loans and extensions of credit arising from the  
19 discount of negotiable or nonnegotiable credit sales  
20 contracts which carry a partial recourse endorsement  
21 or limited guarantee by the person transferring the  
22 credit sales contract, if the savings bank's



1           respective file or the knowledge of its officers of  
2           the financial condition of each maker of [~~such~~] the  
3           consumer paper is reasonably adequate, and an officer  
4           of the savings bank certifies in writing that the  
5           savings bank is relying primarily upon the  
6           responsibility of each maker for payment of [~~such~~] the  
7           credit sales contract, and not upon any partial  
8           recourse endorsement or limited guarantee by the  
9           transferor. Under these circumstances, [~~such~~] the  
10          credit sales contract will be considered a loan and  
11          extension of credit to the maker of the credit sales  
12          contract rather than the seller of the credit sales  
13          contract.

14          [~~(d)~~] (e) In computing the total loans and extensions of  
15          credit made by a savings bank to any person, all loans and  
16          extensions of credit by the savings bank to the person and to  
17          any partnership, joint venture, or unincorporated association of  
18          which the person is a partner or a member and all credit  
19          exposure arising from a derivative transaction with any person  
20          and with any partnership, joint venture, or unincorporated  
21          association of which the person is a partner or a member shall  
22          be included unless the person is a limited partner, but not a



1 general partner, in a limited partnership, or unless the person  
2 is a partner in a limited or general partnership, or a member of  
3 a joint venture or unincorporated association, if such partner  
4 or member, by law, by the terms of the partnership, joint  
5 venture, or membership agreement, or by the terms of an  
6 agreement with the savings bank, is not to be held liable to the  
7 savings bank for the debts of the partnership, joint venture, or  
8 association. In computing the total loans and extensions  
9 [+]of[+] credit made by a savings bank to any firm, partnership,  
10 joint venture, or unincorporated association, all loans and  
11 extensions of credit to and all credit exposure arising from a  
12 derivative transaction with its individual partners or members  
13 shall be included unless such individual partner is a limited  
14 partner, but not a general partner, in a limited partnership, or  
15 unless such individual partner or member, by law, by the terms  
16 of the partnership, joint venture, or membership agreement, or  
17 by the terms of an agreement with the savings bank, is not to be  
18 held liable to the savings bank for the debts of the  
19 partnership, joint venture, or association.

20 [-(e)] (f) Alternatively, a savings bank may, with the  
21 prior approval of the commissioner, comply with the lending  
22 limits applicable to national ~~[banking associations]~~ banks, as



1 and to the same extent it would, at the time, be so required by  
2 federal law or regulation if it were a national [~~banking~~  
3 ~~association.~~] bank. A savings bank utilizing this alternative  
4 shall use a single method for calculating lending limits,  
5 including any credit exposure to the person arising from a  
6 derivative transaction, repurchase agreement, reverse purchase  
7 agreement, securities lending transaction, or securities  
8 borrowing transaction between the savings bank and the person.  
9 In monitoring a savings bank's compliance with the national  
10 [~~banking association~~] bank lending limits, the commissioner  
11 shall give substantial weight to the Office of the Comptroller  
12 of the Currency's regulations and opinions interpreting the  
13 national [~~banking association~~] bank lending limits [~~and~~],  
14 including but not limited to those related to the internal model  
15 method or the conversion factor matrix method for calculating  
16 credit exposure to derivative transactions as described in title  
17 12 Code of Federal Regulations Part 32 of the Interim Rule as  
18 may be amended. The commissioner will regard [~~them~~] the  
19 regulations and opinions as strong evidence of safe and sound  
20 banking practices."

21 SECTION 8. Section 412:9-200, Hawaii Revised Statutes, is  
22 amended to read as follows:



1       "§412:9-200   **General powers.**   Except as expressly  
2 prohibited or limited by this chapter, a financial services loan  
3 company shall have the power to make loans where the interest  
4 charged, contracted for, or received is in excess of rates  
5 permitted by law, other than this article, and to engage in  
6 other activities that are usual or incidental to the business  
7 for which it is licensed, and shall have all rights, powers, and  
8 privileges of a corporation organized under the laws of this  
9 State, including but not limited to, the power to:

- 10       (1)   Make loans and extensions of credit of any kind,  
11            whether unsecured or secured by real or personal  
12            property of any kind or description;
- 13       (2)   Borrow money from any source within or without this  
14            State;
- 15       (3)   Charge or retain a fee for the originating, selling,  
16            brokering, or servicing of loans and extensions of  
17            credit;
- 18       (4)   Discount, purchase, or acquire loans, including but  
19            not limited to notes, credit sales contracts, mortgage  
20            loans, or other instruments;
- 21       (5)   Become the legal or beneficial owner of tangible  
22            personal property and fixtures and such other real



1 property interests as shall be incidental thereto, to  
2 lease such property, to obtain an assignment of a  
3 lessor's interest in a lease of the property, and to  
4 incur obligations incidental to the financial services  
5 loan company's position as the legal or beneficial  
6 owner and the lessor of the property;

7 (6) Sell or refer credit related insurance products, and  
8 collect premiums or fees for the sale or referral  
9 thereof, including, but not limited to, credit life  
10 insurance, credit disability insurance, accident, and  
11 health or sickness insurance, involuntary unemployment  
12 insurance, personal property insurance, and mortgage  
13 protection insurance;

14 (7) Make investments as permitted under this article;  
15 [and]

16 (8) Charge to a borrower a returned check fee if a check  
17 that has been tendered by the borrower in payment on  
18 account of a loan is returned unpaid; provided that:

19 (A) The fee shall not exceed \$20;

20 (B) The fee shall be imposed under a separate

21 billing, and shall not be added to a borrower's



1 outstanding loan balance nor deducted from a loan  
2 payment; and

3 (C) A failure to pay the fee shall not constitute a  
4 default under any outstanding loan agreement  
5 between the borrower and the financial services  
6 loan company[-]; and

7 (9) Charge to a borrower a "below minimum draft fee" of  
8 \$10 per draft for the processing costs involved on a  
9 draft written below the minimum amount established on  
10 an open-ended loan."

11 SECTION 9. Section 412:9-404, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 "§412:9-404 [~~Limitation~~] Limitations on loans and  
14 extensions of credit to one borrower. (a) No depository  
15 financial services loan company shall permit a person to become  
16 indebted or liable to it, either directly or indirectly, on  
17 loans and extensions of credit, including any credit exposure  
18 arising out of derivative transactions entered into by a  
19 depository financial services loan company and its subsidiaries,  
20 in a total amount outstanding at any one time in excess of  
21 twenty per cent of the depository financial services loan  
22 company's capital and surplus; provided that such aggregate



1 amount may be increased to one hundred per cent of the  
2 depository financial services loan company's capital and surplus  
3 if the loans and extensions of credit made to the person in  
4 excess of twenty per cent of the depository financial services  
5 loan company's capital and surplus are fully secured by real  
6 property as provided in section 412:9-405.

7 (b) As used in this section, a "derivative transaction"  
8 includes any transaction that is a contract, agreement, swap,  
9 warrant, note, or option that is based, in whole or in part, on  
10 the value of, any interest in, any quantitative measure of the  
11 occurrence of any event relating to, one or more commodities,  
12 securities, currencies, interest or other rates, indices, or  
13 other assets.

14 ~~[(b)]~~ (c) The limitations set forth in this section shall  
15 not apply to:

16 (1) Loans and extensions of credit to the extent secured  
17 by a pledge or security interest in a deposit account  
18 in the lending depository financial services loan  
19 company; and

20 (2) Loans and extensions of credit secured by the  
21 interest-bearing obligations of the United States or  
22 those for which the faith and credit of the United



1 States are distinctly pledged to provide for the  
2 payment of principal and interest thereof or of the  
3 State or any county or municipal or political  
4 subdivision of this State, issued in compliance with  
5 the laws of this State, where the market value of the  
6 security shall be at any time not less than one  
7 hundred five per cent of the face amount of the loans  
8 and extensions of credit.

9 (d) In computing the total loans and extensions of credit  
10 made by a depository financial services loan company to any  
11 person, all loans and extensions of credit by the depository  
12 financial services loan company to the person and to any  
13 partnership, joint venture, or unincorporated association of  
14 which the person is a partner or a member and all credit  
15 exposure arising from a derivative transaction with any person  
16 and with any partnership, joint venture, or unincorporated  
17 association of which the person is a partner or a member shall  
18 be included unless the person is a limited partner, but not a  
19 general partner, in a limited partnership, or unless the person  
20 is a partner in a limited or general partnership, or a member of  
21 a joint venture or unincorporated association, if such partner  
22 or member, by law, by the terms of the partnership, joint



1 venture, or membership agreement, or by the terms of an  
2 agreement with the depository financial services loan company,  
3 is not to be held liable to the depository financial services  
4 loan company for the debts of the partnership, joint venture, or  
5 association. In computing the total loans and extensions of  
6 credit made by a depository financial services loan company to  
7 any firm, partnership, joint venture, or unincorporated  
8 association, all loans and extensions of credit to and all  
9 credit exposure arising from a derivative transaction with its  
10 individual partners or members shall be included unless such  
11 individual partner is a limited partner, but not a general  
12 partner, in a limited partnership, or unless such individual  
13 partner or member, by law, by the terms of the partnership,  
14 joint venture, or membership agreement, or by the terms of an  
15 agreement with the depository financial services loan company,  
16 is not to be held liable to the depository financial services  
17 loan company for the debts of the partnership, joint venture, or  
18 association.

19 (e) Alternatively, a depository financial services loan  
20 company, with the prior approval of the commissioner, may comply  
21 with the lending limits applicable to national banks as and to  
22 the same extent it would, at the time, be so required by federal



1 law or regulation if it were a national bank. A depository  
2 financial services loan company utilizing this alternative shall  
3 use a single method for calculating lending limits, including  
4 any credit exposure to the person arising from a derivative  
5 transaction, repurchase agreement, reverse purchase agreement,  
6 securities lending transaction, or securities borrowing  
7 transaction between the depository financial services loan  
8 company and the person. In monitoring a depository financial  
9 services loan company's compliance with the national bank  
10 lending limits, the commissioner shall give substantial weight  
11 to the Office of the Comptroller of the Currency's regulations  
12 and opinions interpreting the national bank lending limits,  
13 including but not limited to those related to the internal model  
14 method or the conversion factor matrix method for calculating  
15 credit exposure to derivative transactions as described in title  
16 12 Code of Federal Regulations Part 32 of the Interim Rule as  
17 may be amended. The commissioner will regard the regulations  
18 and opinions as strong evidence of safe and sound banking  
19 practices."

## PART II



SECTION 10. Chapter 412, Hawaii Revised Statutes, is amended by adding a new section to article 2 to be appropriately designated, and to read as follows:

"§412:2- Hawaii financial institutions; assessments; fees; penalty. (a) Beginning January 1, 2014, every Hawaii financial institution shall be assessed a yearly fee in accordance with the following:

(1) For financial institutions with total assets under \$750,000, the assessment shall be \$1,000 plus 0.00029111 times total assets;

(2) For financial institutions with total assets of at least \$750,000 but under \$7,500,000, the assessment shall be \$2,000 plus 0.00029111 times total assets;

(3) For financial institutions with total assets of at least \$7,500,000 but under \$20,000,000, the assessment shall be \$4,800 plus 0.00029111 times total assets;

(4) For financial institutions with total assets of at least \$20,000,000 but under \$75,000,000, the assessment shall be \$9,900 plus 0.000064 times total assets;

(5) For financial institutions with total assets of at least \$75,000,000 but under \$200,000,000, the



assessment shall be \$15,000 plus 0.00005333 times  
total assets;

(6) For financial institutions with total assets of at  
least \$200,000,000 but under \$1,000,000,000, the  
assessment shall be \$21,100 plus 0.00004750 times  
total assets;

(7) For financial institutions with total assets of at  
least \$1,000,000,000 but under \$20,000,000,000, the  
assessment shall be \$29,000 plus 0.00004 times total  
assets;

provided that the yearly fee assessed for financial institutions  
with total assets of at least \$2,000,000,000 but less than  
\$10,000,000,000 shall be no more than \$100,000 and at least  
\$10,000,000,000 shall be no more than \$150,000.

(b) The assessments shall be paid semiannually on February  
15 and August 15 of each year based on the institution's total  
assets reported as of the previous December 31 and June 30,  
respectively; provided that the payments of the assessment shall  
commence on February 15, 2014.

(c) In addition to the assessments established in  
subsection (a), a financial institution or financial institution  
applicant shall pay fees as follows:



1       (1) A nonrefundable fee of \$10,000 for an application for  
2       preliminary approval by the commissioner for the  
3       organization of a Hawaii financial institution  
4       pursuant to section 412:3-201, 412:3-202, 412:3-206,  
5       412:3-301, or 412:5-205;

6       (2) A nonrefundable fee of \$9,000 for an application for  
7       preliminary approval by the commissioner for the  
8       organization of a Hawaii financial institution  
9       pursuant to section 412:5-402;

10       (3) A nonrefundable fee of \$2,500 for a final application  
11       for a charter or license to engage in the business of  
12       a Hawaii financial institution pursuant to section  
13       412:3-212;

14       (4) A nonrefundable fee of \$2,500 for a final application  
15       for a charter or license to engage in the business of  
16       a savings bank pursuant to section 412:6-101;

17       (5) A nonrefundable fee of \$2,500 for a final application  
18       for a charter or license to engage in the business of  
19       a trust company pursuant to section 412:8-102;

20       (6) A nonrefundable fee of \$10,000 for an application for  
21       a merger or consolidation or acquisition of control  
22       involving a Hawaii financial institution;



1       (7) A nonrefundable fee of \$10,000 for an application for  
2       the acquisition of control of a Hawaii financial  
3       institution;

4       (8) A nonrefundable fee of \$2,500 for an application for  
5       the conversion of a federal financial institution to a  
6       Hawaii financial institution or the conversion of a  
7       Hawaii financial institution to another Hawaii  
8       financial institution charter;

9       (9) A nonrefundable fee of \$5,000 for an application of a  
10       bank to conduct a trust business through a subsidiary,  
11       division, or department of the bank pursuant to 412:5-  
12       205;

13       (10) A nonrefundable fee of \$5,000 for an application of a  
14       bank to conduct insurance activities pursuant to  
15       section 412:5-205.5;

16       (11) A nonrefundable fee of \$5,000 for an application of a  
17       bank to engage in securities activities pursuant to  
18       section 412:5-205.7;

19       (12) A nonrefundable fee of \$2,000 for an application for a  
20       bank or savings bank to comply with lending limits  
21       applicable to national banking associations pursuant  
22       to section 412:5-302 or section 412:6-303;



1       (13) A nonrefundable fee of \$2,000 for an application to  
2       exceed certain permitted investment limits pursuant to  
3       sections 412:5-305(f) and (h), 412:6-306(f) and (h),  
4       412:7-306(f) and (h), 412:8-301(f), 412:9-409(f) and  
5       (i), and 412:10-502(g); and

6       (14) A nonrefundable fee of \$2,500 for an application for a  
7       charter of a credit union.

8       (d) Beginning January 1, 2014, the annual fee for each  
9       intra-Pacific financial institution and interstate branch of out  
10      of state banks is the sum of \$1,000 for each office, agency, and  
11      branch office maintained by the financial institution, payment  
12      of which shall be made before December 31 of each year. The  
13      commissioner may establish, increase, decrease, or repeal this  
14      fee pursuant to rules adopted in accordance with chapter 91.

15      (e) Intra-Pacific bank fees shall be as follows:

16      (1) A nonrefundable fee of \$750 for an application for a  
17      branch, subsidiary, or subsidiary of a holding company  
18      of an intra-Pacific bank pursuant to section 412:5-  
19      402; and

20      (2) A nonrefundable fee of \$500 for an application to  
21      relocate a branch, subsidiary, or subsidiary of a



1           holding company of an intra-Pacific bank pursuant to  
2           section 412:5-401.

3           (f) A nonrefundable fee of \$500 shall be assessed for an  
4           application to relocate a branch pursuant to section 412:12-107.

5           (g) A nonrefundable fee of \$100 shall be assessed for each  
6           certificate of good standing for any Hawaii financial  
7           institution; provided that an additional fee of \$100 shall be  
8           assessed for each certificate of good standing that is requested  
9           to be provided in two business days from receipt of request.

10          (h) All assessments and fees shall be deposited into the  
11          compliance resolution fund established pursuant to section 26-  
12          9 (o) .

13          (i) For purposes of this section, "total assets" means for  
14          an insured depository institution the total assets reported in  
15          the financial institution's quarterly reports of condition, or  
16          call reports, which are required to be filed pursuant to section  
17          7 (a) (3) of the Federal Deposit Insurance Act or in the unaudited  
18          financial statements filed pursuant to section 412:3-112.

19          (j) A Hawaii financial institution that fails to make a  
20          payment required by this section shall be subject to an  
21          administrative fine of not more than \$250 per day for each day  
22          it is in violation of this section, which fine, together with



1 the amount due under this section, may be recovered pursuant to  
2 section 412:2-611 and shall be deposited into the compliance  
3 resolution fund established pursuant to section 26-9(o)."

4 SECTION 11. Section 412:2-105, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "~~§412:2-105 Fees [and assessments]. [(a) The~~  
7 ~~commissioner may charge an examination fee based upon the cost~~  
8 ~~per hour per examiner for all financial institutions examined by~~  
9 ~~the commissioner or the commissioner's staff. Effective July 1,~~  
10 ~~1995, the hourly fee shall be \$40. After July 1, 1996, the~~  
11 ~~commissioner may establish, increase, decrease, or repeal the~~  
12 ~~hourly fee when necessary pursuant to rules adopted in~~  
13 ~~accordance with chapter 91.~~

14 ~~[(b) In addition to the examination fee, the]~~ (a) The  
15 commissioner ~~[may]~~ shall charge any financial institution  
16 examined or investigated by the commissioner or the  
17 commissioner's staff, ~~[additional amounts]~~ an amount for travel,  
18 per diem, mileage, and other reasonable expenses incurred in  
19 connection with the examination~~[-]~~ or investigation.

20 ~~[(e)]~~ (b) The commissioner shall bill the affected  
21 financial institution for ~~[examination fees, and]~~ expenses as  
22 soon as feasible after the close of the examination or



1 investigation. The affected financial institution shall pay the  
2 division [~~of financial institutions~~] within thirty days  
3 following the billing. All such payments shall be deposited to  
4 the compliance resolution fund established pursuant to section  
5 26-9(o). All disputes relating to these billings between the  
6 affected financial institution and the commissioner shall be  
7 resolved in accordance with the procedures for contested cases  
8 under chapter 91.

9 ~~[(d) The commissioner, by rules adopted in accordance with~~  
10 ~~chapter 91, may set reasonable fee amounts to be collected by~~  
11 ~~the division in connection with its regulatory functions,~~  
12 ~~including, without limitation, any fees for renewals,~~  
13 ~~applications, licenses, and charters. Unless otherwise provided~~  
14 ~~by statute, all such fees shall be deposited into the compliance~~  
15 ~~resolution fund established pursuant to section 26-9(o).~~

16 ~~-(e)]~~ (c) A Hawaii financial institution that fails to make  
17 a payment required by this section shall be subject to an  
18 administrative fine of not more than \$250 per day for each day  
19 it is in violation of this section, which fine, together with  
20 the amount due under this section, may be recovered pursuant to  
21 section 412:2-611, and shall be deposited into the compliance  
22 resolution fund established pursuant to section 26-9(o)."



1       SECTION 12. Section 412:2-508, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3       "(b) Applications for a provisional approval shall be  
4 filed with the commissioner, and shall provide the information  
5 required by this chapter for preliminary approval to organize  
6 the type of financial institution that will result from the  
7 merger or acquisition under this part. The applicant shall also  
8 furnish such other information as the commissioner may require,  
9 and an application fee [~~as established by the commissioner.~~]  
10 assessed pursuant to section 412:2- ."

11       SECTION 13. Section 412:3-102, Hawaii Revised Statutes, is  
12 amended to read as follows:

13       "**§412:3-102 Change of name.** To change its name, a Hawaii  
14 financial institution shall file an application with the  
15 commissioner [~~and pay the fees as the commissioner may~~  
16 ~~establish~~]. The application shall be approved if the  
17 commissioner is satisfied that the new name complies with this  
18 chapter and chapter 414. Any change of name of a stock  
19 financial institution pursuant to this section shall be effected  
20 in accordance with chapter 414. Any change of name shall not  
21 affect a financial institution's rights, liabilities, or  
22 obligations existing prior to the effective date thereof, and no



1 documents of transfer shall be necessary to preserve the rights,  
2 liabilities, or obligations; provided that the commissioner may  
3 require notice to be given to the public and other governmental  
4 agencies."

5 SECTION 14. Section 412:3-212, Hawaii Revised Statutes, is  
6 amended by amending subsection (c) to read as follows:

7 "(c) If the commissioner is satisfied that the financial  
8 institution and, if applicable, its holding company have  
9 fulfilled all the requirements of law and the grounds for  
10 preliminary approval, and that the financial institution is  
11 qualified to engage in the business of a financial institution,  
12 the commissioner shall issue a written decision and order  
13 approving the application. The order may restrict the payment  
14 of dividends for a period of up to three years, and may contain  
15 any other conditions and restrictions on the financial  
16 institution that are in the public interest, including but not  
17 limited to the divestment of any contractual arrangement with an  
18 affiliate or subsidiary involving any type of business not  
19 permitted under this chapter. Upon the satisfactory fulfillment  
20 by the financial institution and, if applicable, its holding  
21 company of the conditions in the written decision and order  
22 approving the application and upon the payment by a depository



1 financial services loan company of ~~[an]~~ the initial license fee  
2 ~~[established by rule pursuant to chapter 91,]~~ assessed pursuant  
3 to section 412:2- , the commissioner shall issue to the  
4 financial institution a charter or license to engage in the  
5 business of a financial institution under this chapter."

6 SECTION 15. Section 412:3-301, Hawaii Revised Statutes, is  
7 amended by amending subsection (c) to read as follows:

8 "(c) The application shall be submitted on a form  
9 prescribed by the commissioner~~[. The application]~~ and shall be  
10 accompanied by an application fee ~~[of \$5,000, or such greater~~  
11 ~~amount as the commissioner shall establish by rule pursuant to~~  
12 ~~chapter 91. The application fee shall not be refundable.]~~  
13 assessed pursuant to section 412:2- ."

14 SECTION 16. Section 412:3-304, Hawaii Revised Statutes, is  
15 amended by amending subsection (b) to read as follows:

16 "(b) If the commissioner is satisfied that the applicant  
17 has fulfilled all the requirements of law and is qualified to  
18 engage in the business of a nondepository financial services  
19 loan company, the commissioner shall issue a written decision  
20 and order approving the application. Upon the approval of the  
21 application~~[, the payment of an initial license fee established~~  
22 ~~by rule pursuant to chapter 91,]~~ and, if applicable, upon



1 providing satisfactory evidence to the commissioner of  
2 compliance with the requirements of chapter 414 relating to  
3 foreign corporations, the commissioner shall issue to the  
4 applicant a license to engage in the business of a nondepository  
5 financial services loan company under this chapter."

6 SECTION 17. Section 412:3-505, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "§412:3-505 Opening or relocating out-of-state branch or  
9 agency. With the commissioner's prior written approval, a  
10 Hawaii financial institution may open or relocate a branch or  
11 agency that is outside of this State, including but not limited  
12 to any state, possession, or territory of the United States or  
13 any foreign country. An application to open or relocate an out-  
14 of-state branch or agency shall be filed in accordance with  
15 section 412:3-503 [~~and the commissioner may assess the~~  
16 ~~financial institution any additional expenses as may be~~  
17 ~~reasonably necessary to consider the application]~~."

18 SECTION 18. Section 412:3-603, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 "§412:3-603 Procedure for applications pursuant to this  
21 part. Whenever the written approval of the commissioner is



1 required with respect to any transaction covered by this part,  
2 the following procedures shall apply:

- 3 (1) An application for approval by the commissioner  
4 pursuant to this part shall be on a form prescribed by  
5 the commissioner and shall contain any information,  
6 data, and records as the commissioner may require[-],  
7 and shall be accompanied by a nonrefundable  
8 application fee assessed pursuant to section 412:2- .

9 As far as possible consistent with the effective  
10 discharge of the commissioner's responsibilities, the  
11 commissioner shall prescribe the use of forms  
12 currently prescribed by the appropriate federal  
13 regulatory agency of financial institutions and  
14 financial institution holding companies for identical  
15 or similar types of transactions[~~-. The application~~  
16 ~~shall be accompanied by an application fee established~~  
17 ~~by the commissioner pursuant to section 412:2-105-~~  
18 ~~The application fee shall not be refundable];~~

- 19 (2) If any material change occurs in the facts set forth  
20 in an application, or if for any other reason the  
21 applicant desires to amend the application, an  
22 amendment setting forth any change, together with



1 copies of all documents and other material relevant to  
2 the change, shall be filed with the commissioner.

3 Within twenty days after receiving an application or  
4 any amendment thereto, the commissioner may request  
5 any additional information necessary in deciding  
6 whether to approve a proposed transaction pursuant to  
7 this part. The applicant shall submit the additional  
8 information in a reasonable time thereafter, as may be  
9 specified by the commissioner;

10 (3) If the commissioner would approve a plan of  
11 conversion, merger, or consolidation, an acquisition  
12 of assets or assumption of liabilities, an acquisition  
13 of control, or a voluntary cessation of business or  
14 voluntary dissolution, but on terms different than  
15 contained in the application, the commissioner may  
16 give notice to the applicant of the nature of the  
17 changes [~~which~~] that would be approved, and the  
18 applicant may submit an amended application;

19 (4) If the commissioner intends to disapprove an  
20 application, the commissioner shall deliver to the  
21 applicant a written notice of the intent to  
22 disapprove. Within ten days after receipt of the



1 commissioner's notice of intent to disapprove an  
2 application, the applicant may request an  
3 administrative hearing, to be held in accordance with  
4 chapter 91. If no request for a hearing is made, the  
5 commissioner's disapproval shall become final. If  
6 after the hearing the commissioner finally disapproves  
7 the application, the applicant may, within thirty days  
8 of the date of the final decision, appeal to the  
9 circuit court as provided in chapter 91;

- 10 (5) Notwithstanding any other provision of this part, any  
11 complete application [~~which~~] that is not approved or  
12 denied by the commissioner within a period of sixty  
13 days after the application is filed with the  
14 commissioner or, if the applicant consents to an  
15 extension of the period within which the commissioner  
16 may act, within the extended period, shall be deemed  
17 to be approved by the commissioner as of the first day  
18 after the period of sixty days or the extended period.  
19 If the commissioner gives notice of an informational  
20 and comment proceeding on the application, the sixty-  
21 day period shall be extended to a date as may be fixed  
22 by order of the commissioner. For purposes of this



1 section, an application is deemed to be filed with the  
2 commissioner at the time when the complete  
3 application, including any amendments or supplements,  
4 containing all of the information in the form required  
5 by the commissioner, is received, and accepted by the  
6 commissioner; and

7 (6) Any applicant submitting information to the  
8 commissioner pursuant to this part may request that  
9 the information, or any part thereof, be kept  
10 confidential. The request shall be made in writing  
11 and shall set forth the specific items sought to be  
12 kept confidential and the reasons and authority for  
13 the confidential treatment. The commissioner may,  
14 pursuant to a request or otherwise, determine that  
15 good cause exists to keep some or all of the  
16 information confidential, and shall keep the  
17 information confidential and not subject to public  
18 disclosure. In connection with an application for the  
19 acquisition of control pursuant to section 412:3-612,  
20 the commissioner may release information to the  
21 affected financial institution or financial



1 institution holding company with a directive that some  
2 or all of the information be kept confidential."

3 SECTION 19. Section 412:5-203, Hawaii Revised Statutes, is  
4 amended by amending subsection (d) to read as follows:

5 "(d) The bank shall file an application with the  
6 commissioner in a form approved by the commissioner. The  
7 application shall be accompanied by a fee [~~the amount of which~~  
8 ~~shall be prescribed by rule.~~] assessed pursuant to section  
9 412:2- . The application shall contain the following

10 information concerning the proposed operating subsidiary:

- 11 (1) The name and date for commencement of operations;  
12 (2) The specific location;  
13 (3) The activities and nature of business;  
14 (4) The ownership, amount, and nature of the investment;  
15 and  
16 (5) Any other information that the commissioner may  
17 require."

18 SECTION 20. Section 412:5-205, Hawaii Revised Statutes, is  
19 amended by amending subsection (b) to read as follows:

20 "(b) The bank shall file an application for such approval  
21 with the commissioner on a form prescribed by the commissioner,  
22 together with an application fee [~~of \$5,000, or such greater~~



1 ~~amount as the commissioner shall establish, no part of which~~  
2 ~~shall be refundable.]~~ assessed pursuant to section 412:2- .

3 The application shall contain the following information:

- 4 (1) Appropriate board resolutions authorizing the  
5 establishment of a trust company, division, or  
6 department;
- 7 (2) Employment history, education, management experience,  
8 and other biographical information for all executive  
9 officers, trust officers, and managers of the trust  
10 company, division, or department;
- 11 (3) Proposed policies concerning common trust funds,  
12 overdrafts, disaster recovery plans, dividends,  
13 management of assets and liabilities, conflicts of  
14 interest, investments, and fee schedules. The  
15 commissioner may consider any existing bank policies  
16 that will be adapted and [utilized] used for its trust  
17 business;
- 18 (4) A business plan and financial projections regarding  
19 profitability of the proposed trust business;
- 20 (5) Evidence that the bank has or will have the financial  
21 ability, responsibility, and experience to engage in  
22 the trust business; and



1           (6) Any other information [~~which~~] that the commissioner  
2                   may require."

3           SECTION 21. Section 412:5-205.5, Hawaii Revised Statutes,  
4 is amended by amending subsection (c) to read as follows:

5           "(c) The bank shall file an application for approval with  
6 the commissioner in a form prescribed by the commissioner. The  
7 application shall be accompanied by a fee [~~the amount of which~~  
8 ~~shall be prescribed by rule.~~] assessed pursuant to section  
9 412:2- . The application shall contain:

- 10           (1) A description of the activities to be conducted;  
11           (2) The experience and qualifications of the proposed  
12                   managers;  
13           (3) The specific location where the activities will be  
14                   conducted; and  
15           (4) Any other information that the commissioner may  
16                   require.

17 If the bank proposes to engage in the business of insurance  
18 through a subsidiary or affiliate, then the application shall  
19 also contain information regarding the experience and  
20 qualifications of the proposed executive officers and directors  
21 of the subsidiary or affiliate and the ownership, amount, and  
22 nature of the bank's investment in and advances to the



1 subsidiary or affiliate. Upon being satisfied that the  
2 application is complete, that the conduct of the insurance  
3 business will not affect the safety or soundness of the bank or  
4 harm the public interest, and that the bank and its subsidiary  
5 or affiliate, if applicable, have sufficient experience,  
6 qualifications, and financial capability to engage in the  
7 activities authorized by this section, the commissioner shall  
8 approve the application. The commissioner may impose any terms  
9 and conditions ~~[which]~~ that the commissioner considers necessary  
10 to protect the bank, the customers of the bank, and the public  
11 interest."

12 SECTION 22. Section 412:5-205.7, Hawaii Revised Statutes,  
13 is amended by amending subsection (c) to read as follows:

14 "(c) The bank shall file an application for approval with  
15 the commissioner in a form prescribed by the commissioner[~~—The~~  
16 ~~application shall be~~] and accompanied by a fee [~~the amount of~~  
17 ~~which shall be prescribed by rule.~~] assessed pursuant to section  
18 412:2- . The application shall contain:

- 19 (1) A description of the activities to be conducted;  
20 (2) The experience and qualifications of the proposed  
21 managers;



1 (3) The specific location where the activities will be  
2 conducted; and

3 (4) Any other information that the commissioner may  
4 require.

5 If the bank proposes to engage in securities activities through  
6 a subsidiary or affiliate, then the application shall also  
7 contain information regarding the experience and qualifications  
8 of the proposed executive officers and directors of the  
9 subsidiary or affiliate and the ownership, amount, and nature of  
10 the bank's investment in and advances to the subsidiary or  
11 affiliate. Upon being satisfied that the application is  
12 complete, that the conduct of the securities activities will not  
13 affect the safety or soundness of the bank or harm the public  
14 interest, and that the bank and its subsidiary or affiliate, if  
15 applicable, have sufficient experience, qualifications, and  
16 financial capability to engage in the activities authorized by  
17 this section, the commissioner shall approve the application.  
18 The commissioner may impose any terms and conditions [~~which~~  
19 that the commissioner considers necessary to protect the bank,  
20 the customers of the bank, and the public interest."

21 SECTION 23. Section 412:5-402, Hawaii Revised Statutes, is  
22 amended by amending subsection (a) to read as follows:



1        "(a) In order to obtain prior approval of the commissioner,  
2 the applicant shall file the application required by and comply  
3 with the provisions of article 3. The application shall be  
4 accompanied by the application fee assessed pursuant to section  
5 412:2- . The application shall contain the following  
6 information:

7        (1) The applicant's articles of incorporation and bylaws,  
8 or other basic governing documents;

9        (2) A certificate from the appropriate regulatory body  
10 where its home office is located, indicating that the  
11 applicant is in good standing in that jurisdiction;  
12 and

13        (3) Any other information required by the commissioner."

14        SECTION 24. Section 412:6-201, Hawaii Revised Statutes, is  
15 amended by amending subsection (b) to read as follows:

16        "(b) Any savings bank desiring to acquire any federal  
17 power shall file an application with the commissioner. The  
18 application shall indicate the applicable federal statute, rule,  
19 regulation, interpretation, or court decision[7]; the extent of  
20 the federal power desired[7]; the reasons for the  
21 application[7]; and any other information requested by the



1 commissioner. The commissioner may by rule prescribe the form  
2 of application [~~and application filing fees~~]."

3 SECTION 25. Section 412:9-102, Hawaii Revised Statutes, is  
4 repealed.

5 [~~"§412:9-102 Annual license fee. On or before December 31  
6 of each year, each financial services loan company shall pay to  
7 the commissioner an annual license fee of \$50 for each license  
8 that it holds for the ensuing year. A financial services loan  
9 company whose application for a license was approved in December  
10 may pay to the commissioner the first annual license fee of \$50  
11 for the ensuing year on or before the expiration of thirty days  
12 after receiving notice of the approval of the financial services  
13 loan company's application."~~]

14 PART III

15 SECTION 26. Chapter 412, Hawaii Revised Statutes, is  
16 amended by adding a new section to article 2 to be appropriately  
17 designated and to read as follows:

18 "§412:2- Hawaii financial institutions; fees; penalty.

19 (a) A financial institution or financial institution applicant  
20 shall pay fees as follows:

21 (1) A nonrefundable fee of \$10,000 for an application for  
22 preliminary approval by the commissioner for the



1       organization of a Hawaii financial institution

2       pursuant to section 412:3-201, 412:3-202, 412:3-206,

3       412:3-301, or 412:5-205;

4       (2) A nonrefundable fee of \$9,000 for an application for

5       preliminary approval by the commissioner for the

6       organization of a Hawaii financial institution

7       pursuant to section 412:5-402;

8       (3) A nonrefundable fee of \$2,500 for a final application

9       for a charter or license to engage in the business of

10       a Hawaii financial institution pursuant to section

11       412:3-212;

12       (4) A nonrefundable fee of \$2,500 for a final application

13       for a charter or license to engage in the business of

14       a savings bank pursuant to section 412:6-101;

15       (5) A nonrefundable fee of \$2,500 for a final application

16       for a charter or license to engage in the business of

17       a trust company pursuant to section 412:8-102;

18       (6) A nonrefundable fee of \$10,000 for an application for

19       a merger or consolidation or acquisition of control

20       involving a Hawaii financial institution;



1       (7) A nonrefundable fee of \$10,000 for an application for  
2       the acquisition of control of a Hawaii financial  
3       institution;

4       (8) A nonrefundable fee of \$2,500 for an application for  
5       the conversion of a federal financial institution to a  
6       Hawaii financial institution or the conversion of a  
7       Hawaii financial institution to another Hawaii  
8       financial institution charter;

9       (9) A nonrefundable fee of \$5,000 for an application of a  
10       bank to conduct a trust business through a subsidiary,  
11       division, or department of the bank pursuant to 412:5-  
12       205;

13       (10) A nonrefundable fee of \$5,000 for an application of a  
14       bank to conduct insurance activities pursuant to  
15       section 412:5-205.5;

16       (11) A nonrefundable fee of \$5,000 for an application of a  
17       bank to engage in securities activities pursuant to  
18       section 412:5-205.7;

19       (12) A nonrefundable fee of \$2,000 for an application for a  
20       bank or savings bank to comply with lending limits  
21       applicable to national banking associations pursuant  
22       to section 412:5-302 or section 412:6-303;



1     (13) A nonrefundable fee of \$2,000 for an application to  
2     exceed certain permitted investment limits pursuant to  
3     sections 412:5-305(f) and (h), 412:6-306(f) and (h),  
4     412:7-306(f) and (h), 412:8-301(f), 412:9-409(f) and  
5     (i), and 412:10-502(g); and

6     (14) A nonrefundable fee of \$2,500 for an application for a  
7     charter of a credit union.

8     (b) Intra-Pacific bank fees shall be as follows:

9     (1) A nonrefundable fee of \$750 for an application for a  
10    branch, subsidiary, or subsidiary of a holding company  
11    of an intra-Pacific bank pursuant to section 412:5-  
12    402; and

13    (2) A nonrefundable fee of \$500 for an application to  
14    relocate a branch, subsidiary, or subsidiary of a  
15    holding company of an intra-Pacific bank pursuant to  
16    section 412:5-401.

17    (c) A nonrefundable fee of \$500 shall be assessed for an  
18    application to relocate a branch pursuant to section 412:12-107.

19    (d) A nonrefundable fee of \$100 shall be assessed for each  
20    certificate of good standing for any Hawaii financial  
21    institution; provided that an additional fee of \$100 shall be



1 assessed for each certificate of good standing that is requested  
2 to be provided in two business days from receipt of request.

3 (e) All assessments and fees shall be deposited into the  
4 compliance resolution fund established pursuant to section 26-  
5 9(o).

6 (f) For purposes of this section, "total assets" means for  
7 an insured depository institution the total assets reported in  
8 the financial institution's quarterly reports of condition, or  
9 call reports, which are required to be filed pursuant to section  
10 7(a)(3) of the Federal Deposit Insurance Act or in the unaudited  
11 financial statements filed pursuant to section 412:3-112.

12 (g) A Hawaii financial institution that fails to make a  
13 payment required by this section shall be subject to an  
14 administrative fine of not more than \$250 for each day it is in  
15 violation of this section, which fine, together with the amount  
16 due under this section, may be recovered pursuant to section  
17 412:2-611 and shall be deposited into the compliance resolution  
18 fund established pursuant to section 26-9(o)."

19 **PART IV**

20 SECTION 27. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.



1       SECTION 28. This Act shall take effect upon its approval;  
2 provided that part II shall take effect on January 1, 2014, and  
3 part III shall be repealed on January 1, 2014; provided further  
4 that section 10 shall take effect on January 1, 2014.

5



**Report Title:**

Financial Institutions; Hawaii Banks; Powers; Fees

**Description:**

Modernizes the State's financial institutions law, codified as chapter 412, Hawaii Revised Statutes. Replaces individual fees for Hawaii banks, and nondepositories for specific regulatory items with one assessment. Increases, and clarifies bank powers. Clarifies the authority of the commissioner of financial institutions. (SD1)

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